

CITY OF GAITHERSBURG
MINUTES OF A CITY COUNCIL MEETING
CITY HALL COUNCIL CHAMBERS
MONDAY, NOVEMBER 19, 2012

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa, Sesma and Spiegel. Staff present: Acting City Manager Tomasello, Planning and Code Administration Director Schlichting, Capital Projects/Facilities Director Mullarkey, Public Works Operations Superintendent Scafide Parks, Recreation and Culture Director Potter, Economic Development Director Lonergan, Lead Long Ranger Planner Robinson, Housing and Community Development Director Kauffmann, Senior Recreation Program Supervisor Winans, 2012 Third Quarter Employee Award Recipients, City Attorney Board, and Municipal Clerk Stokes. Planning Commission present for staff guidance agenda: Bauer, Hopkins, Kaufman, Lanier and Winborne.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Andrea (3rd grade) and Andriana (1st grade), Arcola Elementary School.

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Motion was made by Council Member Ashman, seconded by, Council Member Marraffa, that the minutes of the Mayor and Council regular meeting held September 4, 2012, be approved.

Vote: 4-0-1 (Abstained: Sesma)

Motion was made by Council Member Spiegel, seconded by, Council Member Marraffa, that the minutes of the Mayor and Council work session held October 15, 2012, be approved.

Vote: 4-0-1 (Abstained: Sesma)

IV. CONSENT ITEMS

A. Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract to Provide Snow Removal Services for the City of Gaithersburg

This resolution authorized the City Manager to enter into a contract for snow removal with C&C Custom Lawncare, Inc., P.O. Box 510, Mount Airy, Maryland 21771, in an amount not to exceed Ninety Thousand Dollars (\$90,000); said funds to be expended from the Operating Budget.

B. Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for Architectural and Engineering Services for the Gaithersburg Senior Center

This resolution authorized the City Manager to enter into a contract for the above services with Mimar Architects, Inc., 7000 Security Boulevard, Suite 320, Baltimore, Maryland 21244, in an amount not to exceed Sixty-Three Thousand Two Hundred Fifty-Three Dollars (\$63,253); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Ashman, that the Consent Agenda (Resolution No. R- 80-12 and R-81-12), be approved.

Vote: 5-0

V. PRESENTATIONS

A. Proclamation of the Mayor and City Council Designating November 2012 as “National American Indian

and Alaska Native Heritage Month” in the City of Gaithersburg

Mayor Katz was joined by Lisa Wyzlic, Executive Assistant and Director of Scholarship Programs for the Association on American Indian Affairs and Ken Weiss, member of the City's Multicultural Affairs Committee, to accept this year's proclamation designating November 2012 as "National American Indian and Alaska Native Heritage Month" in the City of Gaithersburg. The Multicultural Affairs Committee hosted a celebration at the Youth Center in Olde Towne Gaithersburg.

B. 2012 Third Quarter Employee Recognition Awards

The following employees were recognized for Employee of the Quarter Awards in the Third Quarter of 2012:

Al Guzman, Lead Maintenance Worker, Mowing & Bulk Pickup Team, Department of Public Works, was recognized for continually going above and beyond his job duties and his ongoing contributions to the Department.

Elena Ingram, Crime Analyst, Police Department, was recognized for her hard work and dedication in assisting all of the staff in the Department.

The Leisure Times Redesign Team was named the Team of the Third Quarter for their work in completely redesigning the City's Leisure Times publication. The team made the quarterly guide more attractive, better organized, and easier to use. Members of the team are: Maria Fullerton, Terrilyn Lahs, Jennifer Mogus, Denise Mornini, and April Outman.

VI. PUBLIC COMMENTS

No speakers from the public.

VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Marraffa

1. Spoke on the Veterans Day Ceremony and thanked the organizers and participants.
2. Reported that he and Council Member Sesma will attend the National League of Cities Annual Conference in Boston, Massachusetts. Mentioned that the League is currently recruiting new cities and working on block grant funds.

Council Member Spiegel

1. Echoed comments regarding the Veterans Day Ceremony and thanked the veterans, elected officials and community leaders who were in attendance and participated during the event.
2. Attended the Montgomery County Chapter of the Maryland Municipal League meeting. Reported that Eddie Kuhlman did not win his seat in the recent elections in Poolesville, Maryland. Therefore, a vacancy occurred for the Montgomery County Chapter President and Bridget Donnell Newton was elected to finish the term. There was also discussion on tax duplication. Mayor Katz noted that Council Vice President Spiegel was elected Vice President of the Chapter.
3. Congratulated and thanked staff and volunteers for their involvement with the Winter Lights Run Under the Lights event.
4. Congratulated LA Fitness on their grand opening at the corner of Quince Orchard Road and Clopper Road in Gaithersburg. Stated it is a great facility and wished them well.
5. Thanked and expressed appreciation to the individuals involved in the Native American Heritage celebration. Attended the festivities at the Olde Towne Youth Center.

6. Congratulated the recipients of the Employee Recognition Awards.
7. Wished all a happy and safe Thanksgiving.

Council Member Ashman

1. Echoed well wishes for a Happy Thanksgiving to all.
2. Mentioned that the Quince Orchard Cougars will travel to Westminster, Maryland for the football 4A State Semi Finals on Friday and encouraged others to come out and support the team.
3. Attended the City's Veterans Day Ceremony.
4. Mentioned that he missed the last work session to attend the National Press Club Book Fair to take advantage of an opportunity to recruit new authors for Gaithersburg's Book Festival.
5. Thanked Council Vice President Spiegel for his service on the Maryland Municipal League Montgomery County Chapter and election serve as Vice President.

Council Member Drzyzgula

1. Enjoyed the well attended Veterans Day Ceremony. Encouraged citizens to continuously thank Veterans and Active Duty Service members all year round not just on Veterans Day.
2. Reported that the Multicultural Affairs Committee met and sponsored the American Indian and Alaska Native event at the Olde Towne Youth Center. Encouraged citizens to visit the National Museum of the American Indian in Washington, D.C.
3. Reported that the Metropolitan Washington Council of Governments and the Chesapeake Bay Policy Committee met with various water utilities, WSSC was in attendance. Discussed the challenge of aging infrastructure in the area. The Committee continues to discuss Maryland's Proposed Growth Offset Policy which is another part of the Bay pollution diet and requires development in areas that were not previously developed to offset the pollutants.
4. Participated in the Winter Lights Run Under the Lights event. Expressed support for the newly added activity.
5. Announced that members are being sought to serve on the Constitution Gardens Ad Hoc Improvement Committee. The members will represent a cross section of stakeholders including, those who live in proximity to Constitution Gardens, those who donated funds or have memorials to friends and families within the park, and others who are interested in the future of this property located at 112 Brookes Avenue in Olde Towne, Gaithersburg. Functions of the committee will include:
 - Reviewing existing conditions of the site.
 - Identifying commemorative plantings that may be restored or relocated if necessary.
 - Reviewing information gathered by staff through outreach to the original donor base.
 - Consulting with the Gaithersburg Police Department on safety and security issues related to park renovations.
 - Gathering public input on potential improvements or modifications to the site.
 - Compiling a list of prioritized options to increase the utility of the park and its environs for presentation to the Mayor and City Council in the spring of 2013.

Resumes and letters of interest should be submitted by 5 p.m. on Friday, December 21, 2012 to: Mayor and City Council, 31 South Summit Avenue, Gaithersburg, Maryland 20877, or send via email to: cityhall@gaithersburgmd.gov. For more information, contact Adam Newhart at **301-258-6370 x 103** or e-mail anewhart@gaithersburgmd.gov.

Council Member Sesma

1. Announced that a closed meeting was held on Monday, November 5, 2012, at City Hall at approximately 9:35 p.m., pursuant to the State Government Article of the Annotated Code of Maryland Section 10-508(a) (3) to consider the acquisition of real property for a public purpose and matters directly related thereto and 10-508(a) (4) to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State. The topics discussed were the potential sale of City owned property and the consideration of a proposal to provide incentives for department complex to redevelop in the City. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel, Acting City Manager Tomesello, City Attorney Board, Economic Development Director Loneragan (left at 9:50 p.m.), and Housing Economic Developing Director Kauffman (left at 9:50 p.m.). The closed session adjourned at approximately 10:02 p.m.
2. Wished everyone a Happy Thanksgiving and encouraged residents to enjoy their families and be thankful.
3. Congratulated the quarterly employee award recipients.
4. Thanked the State Parks, Montgomery County Road Runners Club and the City's Parks, Recreation and Culture staff for coordinating a great event, Winter Lights Run Under the Lights. In addition, there was the Leashes and Light event at the park where you could walk your dog through the 3.5 miles of lights.
5. Attended the grand opening of the LA Fitness Center on Clopper Road.
6. Congratulated Council Vice President Spiegel on his elevation to Vice President for the Maryland Municipal League Montgomery County Chapter.
7. Thanked City staff and residents for their participation in the City Manager hiring process.
8. Attended the 25th Annual Celebration of The Dwelling Place. The organization helps to save lives and asked that the City continue their support.

Mayor Katz

1. Requested the following:

Motion was made by Council Vice President Spiegel, seconded by Council Member Ashman, to conduct a closed Executive Session immediately following the scheduled regular meeting on Monday, November 19, 2012, at City Hall. The meeting is proposed to be closed pursuant to the State Government Article of the Annotated Code of Maryland, Section 10-508(a)(1)(i) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topic to be discussed is the City Manager hiring process.

Vote: 5-0

2. Congratulated City staff and partner Montgomery County on the Homeless Resource Day. Thanked the many volunteers that serve those in need on a daily basis.
3. Announced the following meeting schedule:
 - no work session on Monday, November 26, 2012. In lieu of a work session, the Mayor and City Council will conduct a special meeting on Monday, November 26, following the Kentlands Downtown Partnership Annual Meeting scheduled from 7:30 to 9 p.m.

- special meeting will be held solely for the purpose of voting to conduct a closed executive session, pursuant to Section 10-508(a)(1)(i), State Government Article of the Annotated Code of Maryland, to discuss a personnel matter. The topic to be discussed is the hiring of a City Manager. The special meeting will be held at the Kentlands Mansion, 320 Kent Square Road, Kentlands, Maryland at approximately 9 p.m.
- next regular meeting will be held on Monday, December 3, 2012 at City Hall.
- next work session will be held on Monday, December 10, 2012 at City Hall to receive annual briefings from the Gaithersburg Senior Advisory Committee, Multicultural Affairs Committee, Olde Towne Advisory Committee and the Police Advisory Committee.

VIII. FROM ACTING CITY MANAGER TOMASELLO

1. Reported that staff is gearing up to prepare for the FY 2014 budget. Seeking to schedule the Mayor and City Council Annual Planning Retreat on Monday, February 25, 2013 at 6:30 p.m., at the Gaithersburg Upcounty Senior Center. Staff is proposing modifications to the Strategic Plan and additional departmental work plan items for FY 14.
2. Reported that staff had several discussions on the City's large signature events (Celebrate Gaithersburg, Oktoberfest, and Fourth of July Ceremony). Staff plans to provide suggestions for enhancements to said events at the upcoming Mayor and Council meeting on Tuesday, January 22, 2012.
3. Stated that the staff team for the Kentlands Firehouse RFP is completing its scoring for the three proposals received and will convene on Friday, November 20, to discuss the results. Recommendations will be forthcoming to the Mayor and City Council.

IX. ECONOMIC DEVELOPMENT UPDATE

Economic Development Director Loneragan

1. Attended the City sponsored developers luncheon event at Growlers in Olde Towne Gaithersburg. Thanked Planning and Code Administration Director Schlichting and Olde Towne Coordinator Hines who were terrific partners in planning the event.
2. Announced that staff will select a winning bidder for the Frederick Avenue RFP by December 2012.

X. ORDINANCES, RESOLUTIONS AND REGULATIONS

A. Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Note and Covenant and a Payment in Lieu of Taxes (PILOT) Agreement with Montgomery Housing Partnership, Inc. for the Purchase and Renovation of 439 North Frederick Avenue

This resolution authorized the City Manager to negotiate and execute a note and covenant and a payment in Lieu of taxes with Montgomery Housing Partnership, Inc. for the purchase and renovation of 439 N. Frederick Avenue. Montgomery Housing Partnership, Inc. (MHP), a non-profit developer, has entered into a purchase agreement with 439 N Frederick Avenue LLC to acquire North Frederick Avenue Apartments. MHP requested \$486,000 in a low-interest loan from the City's Housing Initiatives Fund to undertake major interior and exterior renovations to the property. MHP also requested a seven-year property tax waiver from both the City and County. Pending final approval, Montgomery County has agreed to match the City's loan for the property, and to offer a Payment in Lieu of Taxes (PILOT) under similar terms. The agreement will contain the expectations and conditions of both parties relating to the loan and PILOT. Staff sought approval to complete negotiations, execute the documents and issue the loan funds. It was clarified that the City's participation will not go forward unless the other parties contribute as agreed.

Motion was made by Council Member Sesma, Seconded by, Council Member Spiegel, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL, OF GAITHERSBURG AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A NOTE AND COVENANT AND A

PAYMENT IN LIEU OF TAXES(PILOT) AGREEMENT WITH MONGOMERY HOUSING PARTNERSHIP, INC. FOR THE PURCHASE AND RENOVATION OF 439 NORTH FREDERICK AVENUE (Resolution R-82-12), be approved.

Vote: 5-0

B. Resolution of the Mayor and Council Authorizing the City Manager to Negotiate and Execute an Economic Development Incentive Agreement with Gene DX

This resolution authorized the City Manager to negotiate and execute an economic development incentive agreement with Gene DX. Gene DX decided to remain within their existing 45,000 feet office space at 209 Perry Parkway, as well as lease an additional 29,000 feet of space nearby at 205 Perry Parkway. The company has requested the City to provide limited funding to assist with the renovation of both their existing space as well as the newly leased space. It is anticipated that the City would provide a grant of \$3 per square foot, up to \$225,000. An economic development incentive agreement will be prepared that contains the expectations and conditions of both parties relating to award of the financial incentives. Staff sought approval to complete negotiations and execute the documents.

Motion was made by the Council Member Drzyzgula, seconded by Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG AUTHORIZING THE CITY MAMNGER TO NEGOTIATE ANS EXECUTE AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH GENE DX (Resolution No. R-83-12), be approved.

Vote: 5-0

XI. PUBLIC HEARING

An Ordinance to Amend Chapter 17 of the City Code Entitled “Personnel” by Adding Section 17-2.1, Entitled “Reporting of Improper or Illegal Acts”

City Attorney Board presented the above proposed ordinance. The record will be held open for ten (10) days, November 29, 2012, with anticipated policy discussion on December 17, 2012. Stated that many governmental entities, including federal, state and local governments have adopted policies to encourage the reporting of improper or illegal actions by government officials and employees and have established investigatory procedures when such actions are reported. In order to establish such a procedure for Gaithersburg, staff convened the “Whistleblower Focus Group” made up of a cross-section of employees to develop and review proposed regulations. The focus group met several times in the Spring of 2012 and recommended amendments to the Personnel Rules and Regulations Manual, which were then reviewed by the Senior Leadership Team. The proposed ordinance was discussed during the work session held August 13, 2012. Resolutions to implement the proposed Ordinance will be presented for consideration at the time of policy discussion.

Council Vice President Spiegel questioned and reiterated the provision that requires that any reports of illegal or improper actions must show the factual basis for the employee's reasonable belief that the action had occurred. Clarified that the provision covers reasonable belief and that the employee is still protected regardless whether the report is actually true. It was noted that the report can't be frivolous or abusive.

There were no speakers at the hearing.

Motion was made by Council Member Sesma, seconded by, Council Member Spiegel, that the City Council hold their record open on the above for ten (10) days, 5 p.m., November 29, 2012.

Vote: 5-0

XII. STAFF GUIDANCE

The City's Planning Commission joined the Mayor and City Council at the dais to receive the following presentations.

A. **Presentation from the Metropolitan Washington Council of Governments (MWCOG) on Regional Activity Centers**

Planner Robinson introduced MWCOG Paul DesJardin, Director of Community Planning & Services and briefed the Mayor and City Council and Planning Commission on the proposed Regional Activity Centers (RAC), a tool of the Region Forward Initiative. MWCOG has revised its criteria for designating Activity Centers and updated its Activity Centers map. While the centers will take different forms and serve different roles depending on their context and assets, all the centers together will play a central role in achieving Region Forward's numerous prosperity, sustainability, accessibility, and livability goals.

Mr. DesJardin reviewed the concept map of the Activity Centers; places that will have regional or metropolitan significance in 2040. Each center will have its own unique strengths and opportunities. The Region Forward Coalition will work with local governments to identify the region's strengths and opportunities. From that, the Coalition will develop tools and strategies to use these assets to help achieve the Region Forward Vision. Mr. DesJardin noted that the centers will be updated annually to reflect changes in local planning. He stated that 136 centers were identified and spoke on the distribution in various areas, focusing on policy and priority areas in local government and looking at a more pedestrian connected location with transit. MWCOG worked with City staff to identify four centers (Metropolitan Grove, Gaithersburg Central/Downtown, Kentlands and Crown Farm/Life Sciences Center) in Gaithersburg which meets all the core and additional attributes. In conclusion, he reviewed the schedule stating that the COG Board will approve the Activity Centers in January 2013.

Concerns were expressed with the name activity center which might be confusing with the City's Activity Center at Bohrer Park and the City's interest in making it clear that centers under and partially under Gaithersburg's jurisdiction were identified as such, having planning authority. Interest was expressed in having the City's centers included in the assessment of the strengths and opportunities, possibly partnering with MWCOG. It was noted that while it is a planning document, it also is a marketing and promotional document for future investments and the City's existing centers should be reflected. Mr. DesJardin spoke on other areas with existing activity centers. Responded to a question in regards to obtaining grants and smart growth criteria of agencies such as EPA, HUD, he stated that it would compliment criteria. City staff and representatives of MWCOG were commended on their efforts and work.

B. **Staff Presentation on the Proposed Planning Designations in Accordance with Plan Maryland and the Sustainable Growth & Agricultural Preservation Act**

Planner Robinson presented the draft PlanMaryland and Sustainable Growth & Agricultural Preservation Act area designations. PlanMaryland is a state-wide plan that will promote sustainable land use. The purpose of the Sustainable Growth & Agricultural Preservation Act is to limit the disproportionate impact of large subdivisions on septic systems on farm and forest land, streams, rivers and Chesapeake and Coastal Bays. Both State initiatives use designations, planning areas and tiers respectively, to identify those areas that express specific characteristics and thus may be used to achieve the Goals and Objectives of the State initiatives.

The PlanMaryland establishes five Planning Area-Place categories that local governments can use to pursue objectives for growth, revitalization, land preservation and resource conservation, and maintaining public services and quality of life. Three of the following apply to the City of Gaithersburg: targeted growth and revitalization areas, established community areas in priority funding areas, and future growth areas.

Four tiers of land use categories are created to identify where major and minor residential subdivisions may be located in a jurisdiction and what type of sewerage system will serve them. Resources will be allocated once designations have been selected. Administration adoption of the Tiers is due by December 31, 2012.

Staff provided fact sheets and sought guidance from the Mayor and City Council and Planning Commission on the City's proposed designations. Following support of the designations, staff will complete the formal application process for submission to the State for approval.

Updates were questioned and staff responded that the law for the septic bill will require administrative action and then the environmental element will be incorporated in the future Master Plan update. Staff is seeking to incorporate state designations and set up reviews every six years.

For future use, it was suggested to designate areas on the map with something other than color; possibly the use of stripes or other shapes. In addition, staff was directed to provide a quick summary of the types of incentives involved in the PlanMaryland program and state laws for those who are in compliance. It was suggested to provide a description of funding opportunities. Staff had recommended following the rules of PlanMaryland and dedicate the City's resources in a priority funding area. It was further suggested to clarify and develop a document for the public that incorporates the activity centers and how they compliment PlanMaryland concept and the land use of the City's current Master Plan. Again, staff was commended for compiling and presenting the above information for the City of Gaithersburg.

Motion was made by Commissioner Kaufman, seconded by, Commissioner Lanier, that the Planning Commission endorse the PlanMaryland and the Sustainable Growth & Agricultural Preservation Act Designations as proposed by City staff.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by, Council Member Spiegel, that the City Council endorse the PlanMaryland and the Sustainable Growth & Agricultural Preservation Act Designations as proposed by City staff.

Vote: 5-0

XIII. FROM THE DEPUTY CITY MANAGER, CITY ATTORNEY AND OTHER STAFF

Parks, Recreation and Culture Director Potter referred to a memorandum dated November 15, 2012, in regards to the skate park fees. The Skate Park provides a safe environment for local skaters to enjoy the sport in a designated, controlled environment. Unfortunately, attendance has dropped significantly and steadily. Recently, staff surveyed 11 regional skate parks to find the majority of which have no admission fees. In addition, the City offers two free skate spots which directly and negatively impacted attendance, decreasing it by nearly 4,000 since 2009.

In preparation of the 2013 season, staff proposed to eliminate membership and admission fees. In the FY13 Adopted Fee Schedule, daily admission is \$3 for residents/\$5 for non residents; annual membership is \$35 for residents/\$50 for non residents. The end result will be increased attendance and regained exposure for Park programs. In addition, staff projected that revenue will be gained with more clinics, increased registration and lessons. Modifying the Skate Park's admission policy is necessary to remain competitive with neighboring municipalities and privately owned skate facilities. The Fee Schedule includes a disclaimer that the City reserves the right to review and recommend fee adjustments as predicated by economic conditions, maintaining the authority to add new charges where appropriate. Staff sought approval of the proposed modification for future Skate Park operation. At the end of FY 14, the Skate Park operation will be re-evaluated and staff will make recommendations at that time. Staff was directed to provide information on the users, residents or non-residents. The Mayor and City Council supported the recommendation to amend the Fee Schedule.

Motion was made by Council Member Ashman, seconded by, Council Member Sesma, directing staff to amend the fee schedule as recommended.

Vote: 5-0

XIV. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at approximately 9 p.m.